REMARKS

Claims 1-26 were pending and rejected.

Claims 1 and 9-20 are amended herein. New claim 27 is introduced.

On March 23, 2006, the undersigned attorney conducted a telephone conference with Examiners Yehdega and Bojeva. A summary of the arguments set forth during the interview in included in the following remarks.

The final status of the current official action is premature. The current office action presents a new ground of rejection—a rejection of claims 1 and 10 under §102 based on Gozdeck. In the prior response, Amendment A filed November 11, 2005, independent claims 1 and 10 were presented <u>without amendments</u> and as originally filed. The final status of the current action is thus premature because the new ground of rejection for claims 1 and 10 was not necessitated by amendment. "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." (MPEP 706.07(a)).

It is requested that the finality of the office action be withdrawn.

Claims 1, 7, 8, 10, 16 and 17 were rejected under §102 as being anticipated by Gozdeck. Claims 19-26 were rejected under §102b as being anticipated by Berkson. Claims 2-6, 9, 11-15, and 18 were rejected under §103(a) as being unpatentable over Gozdeck alone or in combination with Berkson. These rejections are traversed.

1.   Claim 1 as amended recites a computer implemented method of providing a customer service agent with variable compensation information, and includes the step of

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displaying to the agent a current amount of variable compensation for the agent based on
the agent's current performance level in handling customer inquires;

displaying to the agent a graphical user interface adapted to allow the agent to
interactively change the agent's performance level, the graphical user interface
comprising:

a first graphical control associated with a first performance measure, and
adapted to allow the agent to change a first percentile ranking of
the agent's performance with respect to the first performance
measure;

a second graphical control associated with a second performance measure, and
adapted to allow the agent to change a second percentile ranking of
the agent's performance with respect to the second performance
measure;

displaying to the agent a change in the amount of variable compensation based on the
change in the first percentile ranking and the second percentile ranking.

Independent claims 10 and 19 have been amended and now respectively recite a user
interface (claim 10) and system (claim 19) that includes first and second graphical controls and
change in variable compensation based on changes in first or second percentile ranking
associated with these controls. Independent method claim 20 has been amended and now recites
steps of receiving a change to at least one of a first percentile ranking and a second percentile
ranking and calculating and displaying a variable compensation based on the received change.

As explained during the interview, the step of displaying a graphical user interface that
includes the first and second graphical controls allows the agent to change two different
percentile rankings (*a first percentile ranking*, and a *second percentile ranking*) each of which
measure the agent's performance with respect to other agents. The step of displaying to the

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agent a change in the variable compensation allows the agent to see how these changes in percentile ranking will effect the agent's variable compensation as a result thereof.

Gozdeck does not disclose the features of various independent claims. Gozdeck is a general sales compensation tool that only shows in Gozdeck's FIG. 3 the agent's potential compensation based on <u>percentage</u> of quota achievement. As explained during the interview, <u>percentages</u> are different from <u>percentiles</u>[1] and reflect different statistical facts, depending on what data is associated with a percentage and what data is associated with a percentile. Gozdeck's agent may achieve 80 <u>percent</u> of her own personal quota but that suggests nothing as to how her performance compares in <u>percentile</u> terms with respect to her peers: she may be the best performer among her peers (e.g., in the 99th percentile) or the worst (e.g., in the 10th percentile) but that cannot be known merely from her own quota percent achievement.

Nor does Gozdeck suggest a user interface with direct graphical controls of percentile rankings for two different performance measures, and then using those changes in percentile rankings to compute and display variable compensation. It is true that Gozdeck says of his FIG. 3 that it "is but an example of the organization of the generated compensation report and that the compensation reports" that could be used in his system. But that statement is simply far too general to suggest the <u>specifically claimed user interface, system and method of claims 1, 19, 10 and 20</u>. Gozdeck merely suggests that his user interface could be changed. He does not say <u>how</u> to change it specifically, or what elements or data should be included or should not be, or how

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[1] According to Merriam-Webster: "percentile" is "a value on a scale of one hundred that indicates the percent of a distribution that is equal to or below it <a *percentile* score of 95 is a score equal to or better than 95 percent of the scores>"; "percentage" is "a part of a whole expressed in hundredths". Thus, a percentage is a way of expressing a proportion, a ratio or a fraction as a whole number, by using 100 as the denominator. A number such as "73%" ("73 percent") is shorthand for the fraction 73/100 or 0.73. By contrast, the 73rd percentile

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they should be functionally related to each other. As any designer of user interfaces knows, there are potentially an unlimited number of different user interfaces that could be designed for any given application; the selection and arrangement and functionality of the elements of a user interface are highly variable. Merely expressing a capability to change a user interface or suggest that it provide additional information does not indicate any specific instruction of what changes to make.

Berkson does not does not remedy the deficiencies of Gozdeck. Berkson discusses call center performance measures, but only discloses then providing a "game" to the call center agent if they meet the performance goals. There is no suggestion of any particular user interface, let alone the particular steps and features of claims 1, 10, 19 and 20 as recited above. Combining Gozdeck and Berkson thus does not disclose or suggest the claimed user interface that includes the two graphical controls for adjusting respective percentile rankings and displaying to the agent a change in variable compensation based on changes to the rankings. At best, the combination of the references yields a user interface such as shown in FIG. 3 of Gozdeck, but showing only individual quota achievement such as a simple bar graph (like bar graph 330) or table (table 340) of individual performance of Berkson's call center agent. The agent would then get to play Berkson's "game" based on his performance.

Claim 9 has been amended to further define a payout grid based on two performance measures, and claim 18 has been amended to further define a payout grid based on percentile rankings of specific performance measures. Again, the references whether alone or in combination do not disclose or suggest the specific user interface of a payout grid (as described

denotes a value at or below which 73 percent of the values fall in a particular distribution of values.

in either of these claims) and how changes in the payout grid cooperate interactively with the calculation of variable compensation.

The Examiner is invited to contact the undersigned attorney if she believes that a further discussion of the references would be beneficial towards placing this application in condition for allowance.

Respectfully submitted,
S. RENEE STARNES, ET AL.

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By: /Robert R. Sachs/
Robert R. Sachs, Reg. No. 42,120
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2410
Fax: (415) 281-1350